

SENATE BILL 351

By Haile

AN ACT to amend Tennessee Code Annotated, Section 39-17-431, relative to certain methamphetamine precursors.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-431(c), is amended by adding the following language at the end of the subsection:

This subsection (c) also shall apply to pharmacist-generated prescription orders of the product pursuant to § 63-10-206. The provision of the patient education and counseling as a part of the practice of pharmacy shall be required when product is issued under this subsection (c). Nonexempt products containing an immediate methamphetamine precursor shall not be sold without a doctor generated prescription or pharmacists' generated prescription.

SECTION 2. Tennessee Code Annotated, Section 39-17-431(d), is amended by deleting the subsection in its entirety, and substituting instead the language:

(d) The pharmacist, or any pharmacy technician or pharmacy intern under the supervision of the pharmacist, shall require any person purchasing a nonexempt product that contains any immediate methamphetamine precursor to present valid government issued identification at the point of sale. The pharmacist, pharmacy technician or pharmacy intern shall maintain an electronic record of the sale under this subsection (d) and the record shall be maintained in the form of a pharmacist-generated prescription order in the pharmacy patient profile within the pharmacy's software system as provided by § 63-10- 206(c). The electronic tracking record shall include the name of purchaser; name and quantity of product purchased; date purchased; purchaser identification type

and number, such as driver license state and number; and the identity, such as name, initials, or identification code, of the dispensing pharmacist, pharmacy technician or pharmacy intern. The electronic record shall also be maintained in a manner that allows for the determination of the equivalent number of packages purchased and total quantity of base ephedrine or pseudoephedrine purchased. The pharmacist, pharmacy technician or pharmacy intern shall submit the distribution information to the national precursor log exchange (NPLEX) administered by the national association of drug diversion investigators. The national precursor log exchange (NPLEX) system shall be accessed and used by pharmacies in Tennessee without any charge or fee for accessing or using the system. In the event a pharmacy can not access the electronic sales tracking system, the pharmacy shall maintain a written record keeping system until it can comply with the electronic reporting requirement. The written register shall contain the name of purchaser, name of product purchased, date purchased, number of packages purchased, total quantity of base ephedrine or pseudoephedrine purchased, purchaser identification type and number, such as driver license state and number, purchaser's signature and name or initials of the pharmacist, pharmacy technician or pharmacy intern. A pharmacy choosing to maintain a written register must retain the register for at least one (1) year. The national precursor log exchange shall only be used for the tracking of pharmacists-generated prescription orders related to the purchase of nonexempt immediate methamphetamine precursors that are sold within this state. The national association of drug diversion investigators shall be required to arrange for training on use of the system for all pharmacies at a mutually agreed upon time and at no cost to pharmacies by January 1, 2012. Implementation of this subsection (d) shall occur no later than January 1, 2012. The national association of drug diversion

investigators shall also provide information and access to information from the national precursor log exchange system to authorized law enforcement at no charge.

SECTION 3. Tennessee Code Annotated, Section 39-17-431(e), is amended by deleting the language “or in a locked case within view of and within twenty-five feet (25’) of the counter.”

SECTION 4. Tennessee Code Annotated, Section 39-17-431, is amended by adding the following language as a new subsection (f) and redesignating the subsequent subsections as appropriate:

(f) There shall be no protocol or procedure mandated by any individual or corporate entity that interferes with the pharmacist’s professional duty to counsel and evaluate the patient’s appropriate pharmaceutical needs and the exercise of the pharmacist’s professional judgment as to whether it is appropriate to dispense medication. A pharmacy shall not be held civilly liable as a result of any act or omission in carrying out the requirements of this section.

SECTION 5. This act shall take effect July 1, 2011, the public welfare requiring it, except for Section 2, which shall take effect January 1, 2012, the public welfare requiring it.